

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a) Case No. 16-cv-1054 (DTS)
Delaware corporation,)
))
Plaintiff,)
) **Jury Trial Demanded**
v.)
))
FEDERAL INSURANCE COMPANY,)
an Indiana corporation and ACE)
AMERICAN INSURANCE)
COMPANY, a Pennsylvania)
corporation,)
))
Defendants.)

**PLAINTIFF FAIR ISAAC CORPORATION’S MEMORANDUM IN SUPPORT
OF ITS UNOPPOSED MOTION TO REDACT DECEMBER 13, 2022
BIFURCATION HEARING TRANSCRIPT**

Plaintiff Fair Isaac Corporation (“FICO”) moves pursuant to Fed. R. Civ. P. 5.2(e) to redact its confidential and proprietary information from the December 13, 2022 bifurcation hearing transcript and requests that this Court enter an order directing that only the redacted transcript shall be docketed.

On December 13, 2022, the Court heard Defendant Federal Insurance Company’s (“Federal”) motion to bifurcate the trial. The hearing transcript was made available to the parties on January 10, 2023. [Dkt. 931.] Review of the hearing transcript revealed the need to redact portions relating to FICO’s confidential and proprietary pricing information. Throughout this case, FICO has sought to protect this information. [Dkt. 664, 794, 807, 924.] This Court has previously allowed this information to be sealed in

document and briefing form. [Dkt. 665, 837, 838, 926.] Consistent with the Court’s previous orders protecting FICO’s confidential and proprietary information, FICO respectfully requests that this Court grant its motion to redact the bifurcation hearing transcript.

The common law right of access to judicial records is not absolute and must be weighed against the parties’ interests in maintaining confidentiality of sensitive information. *Klein v. Prime Therapeutics, LLC*, No. 17-cv-1884 (PAM/SER), 2018 U.S. Dist. LEXIS 55767, at *5-6 (D. Minn. Apr. 2, 2018) (internal citations omitted). FICO’s pricing information, including what price it gave a specific customer, may be used by competitors to compete against FICO and by customers to demand better pricing. In *Kampf*, this Court granted a motion to seal an entire exhibit used during a hearing because it was “rife with . . . confidential information” and was not amenable to redaction. *Kampf v. Principal Life Ins. Co.*, No. 21-CV-580 (NEB/LIB), 2022 U.S. Dist. LEXIS 111087, at *10-11 (D. Minn. June 23, 2022). Here, FICO requests only the redaction of its confidential and proprietary pricing practices which appear on nine pages of the bifurcation hearing transcript. Specifically, FICO seeks redaction of:

- the amount of the license fee that the parties agreed on in 2006;
- the amount of the perpetual license fee sought by FICO in 2016;
- the amount of the largest annual license fee for the largest application sought by FICO;
- the proportion of FICO’s licensing fee to the revenue associated with the use of Blaze Advisor;

- the amount of the other license fee referenced by Mr. Hinderaker.

Bifurcation Hear. Trans. at 3:9, 3:13, 6:6, 14:24, 16:2, 18:20, 19:13, 19:20, 19:22, 20:25, 21:5, 22:17-18. A proposed redacted transcript reflecting these changes is attached to the Declaration of Joseph Dubis as **Exhibit A**. The parties have maintained the confidentiality of FICO's pricing practices because the only people in the courtroom for the December 13 hearing were counsel for the parties and court staff. Furthermore, FICO conferred with counsel for Defendants Federal Insurance Company and ACE American Insurance Company regarding this Motion on January 31, 2023. Defendants have indicated that they do not oppose the present motion.

For the foregoing reasons, FICO requests that the Court enter an Order pursuant to Federal Rule of Civil Procedure 5.2(e): (i) allowing FICO to submit a redacted transcript of the December 13, 2022 bifurcation hearing to the Court Reporter; and (ii) directing the Court Reporter to docket only the redacted transcript of the bifurcation hearing.

Dated: February 1, 2023

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